

REMARKS

Status

Claims 1-5, 10-15, 17, 18 and 21 were originally pending in this Office Action. By the present amendment, claims 2-5, 13 and 15-21 have been canceled, and new claims 22-24 have been added. Accordingly, it is now claims 1, 10-12, 14 and 22-24 which are at issue.

The Office Action

In the Office Action mailed March 15, 2007, claims 1-5, 10-15, 17, 18 and 21 were all rejected under 35 U.S.C. §112, first paragraph. In the Office Action, the Examiner indicated that all previously made prior art based rejections have been overcome.

Applicant thanks the Examiner for the consideration of the remarks previously submitted, the withdrawal of the previous prior art based rejections, and for the thorough explanation of the rejections presently at issue.

The Amended Claims Are Fully Supported in the Application as Originally Filed, and Overcome the Rejection under 35 U.S.C. §112, First Paragraph

In the Office Action mailed March 15, 2007, all pending claims were rejected under 35 U.S.C. §112, first paragraph, as not being enabled in the specification. The basis of the present invention is Applicant's finding that cinnamon or various cinnamon-based materials synergistically interact with creatine, in the body, so as to enhance the body's uptake of creatine, and hence facilitate muscle building. It was the Examiner's position that the full breadth of the claims as originally presented was not sufficiently enabled in the specification so as to enable one of skill to practice the invention without undue experimentation. In particular, the Examiner noted that the claims recited that the first component of the mixture is cinnamon, an extract of cinnamon, or a derivative thereof, and the creatine component was described as being creatine,

as well as its various derivatives such as hydrates, esters, and the like. On this basis, the Examiner has advanced the opinion that one of skill in the art could not, in view of the specification, practice the broadly disclosed invention.

Applicant respectfully submits that the general teaching of the invention would be readily comprehended by one of skill in the art, who would be presumed to be knowledgeable of the availability and preparation of various cinnamon derived materials, and various creatine derived materials, given the fact that both of these materials are well known in the nutritional, nutraceutical and medical disciplines, as is evidenced by the prior art already made of record. However, in order to expedite prosecution of this application, and without forfeit of any right to file further divisional or continuation applications, Applicant has hereby restricted the scope of the claims at issue to those which define subject matter described and enabled in full detail in the specification.

In view of the present amendment, claim 1 is the sole independent claim in this application. Claim 1 now recites a dietary supplement in which element (a) is a water-soluble extract of cinnamon. The preparation of this water-soluble extract is described in very good detail in the specification as originally filed, for example at page 7 in the last full paragraph. As detailed therein, this water-soluble extract is prepared by extracting commercially available cinnamon powder with a dilute (0.1 N) solution of acetic acid, and subsequently purified through a column chromatography process. As specified in the original application, extracts of this type are commercially available under the designation Cinnulin PF.

Details of the preparation of water-soluble extracts of cinnamon, of the type usable in the present invention, are also widely known in the prior art; for example, U.S. Patent 6,200,569 describes methods for the preparation of such water-soluble extracts of cinnamon.

The second portion of the composition, element (b), is now specifically recited as being creatine monohydrate and/or a creatine magnesium complex. The identity and use of both of these components is fully described in the specification as originally filed, for example in the table comprising Example 1. These materials are well known in the art and are widely available from a number of commercial sources. The composition may optionally include a carbohydrate, and such materials are clearly known and available in the art.

In view of the foregoing, Applicant respectfully submits that claim 1 is now restricted to subject matter which is fully and clearly supported in the specification. In view of the teaching of the specification, one of ordinary skill in the art could readily prepare and utilize the composition now recited in claim 1. Therefore, claim 1, as well as all claims dependent thereupon, overcome the rejection under 35 U.S.C. §112, first paragraph.

Dependent claims 10-12 and 22-24 are likewise supported in the specification. Claim 10 recites that the carbohydrate component is one or more of dextrose, maltose, maltodextrin and trehalose. These sugars are very well known in the art and are very widely available from a number of commercial sources. These carbohydrates, and their use in the present composition, were disclosed in the application as originally filed. Claim 11 and claim 12 also depend on claim 1, and recite specific weight ranges of the various components. These limitations were also described in detail in the application as originally filed. Claim 14 has been amended to depend on claim 1 and recites particular dosage ranges for the composition, and further details the amount of creatine uptake induced by the use of the composition.

New claim 22 further characterizes the water-soluble extract of cinnamon in that it is also soluble in 0.1 N acetic acid. New claim 23 tracks originally presented claim 13 in that it specifies weight ranges for the components of the composition. Likewise, new claim 24 tracks

originally presented claim 15 and specifies relative amounts of the various components in a particular embodiment of the supplement. None of these claims introduce any new subject matter, and all describe specific parameters set forth in the application as originally filed. These claims likewise are fully enabled in accord with 35 U.S.C. §112, first paragraph.

Conclusion

By the present amendment, Applicant has restricted all claims to compositions very specifically detailed in the present application. In view of these limitations, one of ordinary skill in the art could very easily prepare and utilize the now claimed compositions.

The rejections under 35 U.S.C. §112, first paragraph, are hereby overcome. The application is in condition for allowance. Any questions, comments or suggestions the Examiner may have, which will place the application in still better condition for allowance, should be directed to the undersigned attorney.

Dated: 6-13-07

Respectfully submitted,

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